IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. 817 of 1983

Rewa Chambers Premises
Co-op Society Ltd. .. Plaintiff

versus

R.L. Ramchandani & ors. .. Defendants

...

Mr.M.N. Kothari with N.Z. Khapra for the plaintiff.

Mr.Shroff i/b Dhru & Co. for the defendant no.1.

CORAM : D.G. KARNIK,J.

DATED : 23rd June 2005.

P.C.:

1. Heard learned counsel for the plaintiff and defendant no.1. Rest of the defendants are formal parties. Learned counsel for the defendant no.1 prays for time to file written statement and submits an affidavit of Advocate assistant employed in the office of Advocate on record.

2. The affidavit states that the office of the Advocate of the defendant was shifted in May 1989 and

therefore the papers were misplaced and the written statement could not be filed. Writ of summons was served on the defendant in the year 1983 and appearance was filed by them through their advocate on 23rd June 1983. Assuming that papers were misplaced in the year 1989 in shifting of the office, the affidavit does not explain why the written statement was not filed for a period of six years from 1983 to 1989 when they had the office in the same premises. Therefore, assuming that the delay after 1989 was on account of misplacing of the papers, the delay of six years from 1983 to 1989 is not explained. The suit is 22 years old and the written statement is not filed. In the circumstances, the oral request for granting further time for filing of the written statement cannot be granted.

3. As the written statement has not been filed, suit of the plaintiff is decreed against defendant no.1 under Order 8 Rule 10 of the Code of Civil Procedure in terms of prayer clause (c).

3. At the request of the learned counsel for the defendant no.1, execution of the decree is stayed for a period of four weeks.

D.G. KARNIK, J